

Internal Revenue Service

Department of the Treasury

District
Director

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

JUN 16 1983

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code.

The information submitted indicates you were incorporated [REDACTED], under the non-profit corporation laws of the State of [REDACTED], for the purpose of providing for the social well being and benefit of your members, and for all other legal purposes. On [REDACTED], you were issued a Fictitious Name Registration for "[REDACTED]", and the character of business is stated to operate a private club, restaurant and to serve mixed drinks. In an amendment to the Articles of Incorporation, dated [REDACTED], your purposes were changed to delete "and for all other legal purposes."

Your application states you are organized to provide for the social well being and benefit of all your members through the operation of a restaurant, pool, and dance hall. Your qualification for membership in the club is good moral character, and all members of the organization are of the same class, and have equal voting privileges.

Your By-Laws indicate you will have one class of members and the qualifications and rights of the members of such class shall be: "Annual, upon payment of \$[REDACTED] annual dues." Members shall be elected by the Board of Directors. An affirmative vote of at least two-thirds of the Directors shall be required for election, and the Directors shall serve as the membership committee. Each member shall be entitled to one vote on each matter submitted to a vote of the members, by the Board of Directors. You state that the [REDACTED] members of the club have no rights as far as the operation of the Club are concerned, but they do have voting rights in the election of officers or directors.

██████████

You indicate that guests of members are allowed to participate and attend club functions, and, approximately █% of your annual gross receipts are received from non-members; however, you do not keep records of non-member income.

Your facilities consist of a building, bar, kitchen, recreation area, dance floor, television, pool tables and dining area, and is owned by your President ██████████. ██████████ leases the facilities to the club on a year to year basis, with no written lease agreement, for \$██████ per year, to ██████████, Secretary-Treasurer, and Managing Agent for the organization.

You state you do not solicit public patronage to the club; however, the property contains outside signs for advertisement. The facilities are open seven days per week from 3:00 P.M. to 3:00 A.M.

Your purpose, as stated in your organizational document, is to operate a private club, restaurant and to serve mixed drinks; however, your budget indicates that you do not receive any income from any of these activities, and that your members pay the Lessee for the food and drinks. The club, itself, makes no money other than membership dues; it merely provides facilities for the members.

On ██████████, you were issued an On Premises Consumption Private Club permit and an On Premises Beer Permit, and such permit states that ██████████, as the Managing Agent, has paid her personal property taxes, as required by Law, and that there is a lease contained within the record as required by law, even though your letter dated ██████████ states there is no written lease.

Section 501(c)(7) of the Internal Revenue Code provides exemption for:

"Clubs organized for pleasure, recreation and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder."

Section 1.501(c)(7)-1(b) of the Income Tax Regulations states that:

"...Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business..."

[REDACTED]

A club is not exempt if it provides pleasure and recreation on a commercial basis. Evidence that a club may be operating on a commercial basis is:

1. Membership requirements are broad or vaguely stated.
2. The initiation charges or dues are so low that one-time or transient use of the facilities by the general public is encouraged.
3. Management can effectively perpetuate itself through close physical and financial ties to club activities or facilities or by other means.
4. Organization is conducted in conjunction with commercial enterprises.

Revenue Ruling 65-219, 1965-2 Cumulative Bulletin 168, provides that only clubs which are organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, but no part of its net earnings inure to the benefit of any private shareholder, qualify for exemption: however, if the licensor has the power to control the amount of income by virtue of his control over the operations of the club, the club is operated as a commercial venture for the financial benefit of the licensor and is not exempt under section 501(c)(7) of the Code.

The Internal Revenue Code prohibits exemption under section 501(c)(7) of the Code if it appears that the organization is engaged in expanding club membership by advertising to the general public. The sign outside your facility advertising your club is evidence that the club is engaging in business with the general public.

Your club appears to be operating in a manner which constitutes a subterfuge for doing business with a commercial enterprise. Private inurement is being received by your Lessee through compensation from the sale of liquor, beer and food to your members. Even though the licenses are issued to you under your name, you have indicated that you do not sell food or drink, but that the members pay for these services to the Lessee, [REDACTED], and [REDACTED], the owner of the property. In addition, your Board of Directors have complete authority over acceptance of members to the club, which further indicates control of the club's operations by the Directors.

Accordingly, it is held that you are not entitled to exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code, and you are required to file income tax returns on Form 1120.

[REDACTED]

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

Sincerely yours,

[REDACTED]
[REDACTED]
District Director

Enclosures
Publication 892
Form 6018